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BILL ANALYSIS

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Senate Bill 771 (as enrolled)
Sponsor: Senator Bob Emerson
Senate Committee: Local, Urban and State Affairs
House Committee: Local Government and Urban Policy

PUBLIC ACT 282 of 2003

Date Completed: 3-15-04

CONTENT

The bill amended the Local Government Fiscal Responsibility Act to give an emergency financial manager additional powers, including the authority to reduce, suspend, or eliminate the salary or other compensation of the chief administrative officer and members of the governing body of a unit of local government during a financial emergency. The bill also requires an emergency financial manager to determine whether possible criminal conduct contributed to the financial emergency. The bill took effect on January 8, 2004.

The Act provides for the review, management, and control of the financial operation of units of local government; authorizes the Governor to declare a financial emergency; allows the Local Emergency Financial Assistance Loan Board to appoint an emergency financial manager for a local unit; and prescribes the powers of the emergency financial manager. ("Local government" means a city, village, township, or county, an authority established by law, or a public utility owned by a city, village, township, or county.)

The bill includes in the powers of an emergency financial manager the authority to reduce, suspend, or eliminate the salary or other compensation of the chief administrative officer and members of the governing body of the unit of local government during the financial emergency. If an emergency financial manager took this action before the bill's effective date, the bill provides that the reduction, suspension, or

elimination is valid to the same extent had it occurred after the bill's effective date. The bill specifies that these provisions do not authorize a manager to impair vested retirement benefits.

The Act had allowed an emergency financial manager to exercise the authority and responsibilities affecting the financial condition of the local unit, as provided in various statutes cited in the Act that govern different types of local units. Under the bill, the manager may exercise the authority and responsibilities of the local unit's chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions affecting the financial condition of the local unit, as provided in the statutes cited.

Under the Act, an emergency financial manager may consolidate departments or transfer functions from one department to another and appoint, supervise, and, at his or her discretion, remove heads of departments other than elected officials, unless these actions are prohibited by law or charter. The bill authorizes the manager to take these actions notwithstanding any provisions of a charter to the contrary. Under the bill, the manager may remove heads of departments other than elected officials, the clerk of the unit of local government, and any ombudsman position in the local unit.

Under the bill, within 90 days after the completion of an emergency financial manager's term, the governing body of the local unit must review any ordinance

implemented by the manager during his or her term, except any ordinance enacted to assure the payment of principal and interest on bonds.

The bill requires an emergency financial manager, if a financial emergency exists, to determine whether possible criminal conduct contributed to the financial emergency. If the manager determines that there is reason to believe that criminal conduct has occurred, he or she must refer the matter to the Attorney General and the local prosecuting attorney for investigation. The manager's determination must be made by the later of the following dates:

- Within 90 days after the bill's effective date.
- Within 180 days after the date the emergency financial manager is appointed.

MCL 141.1221

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will negligibly reduce State revenues, primarily through income tax withholding, and will decrease local unit expenditures in affected units by an unknown amount.

Fiscal Analyst: David Zin

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